

AN ATTEMPT TO CLASSIFY OFFENDERS

by

DR. KATALIN GÖNCZÖL

associate professor

Our typological experiment was designed to classify primarily *recidivists*. This method is believed to be convenient for achieving an increase in the special preventive force of the punishment imposed on them. The practice of jurisdiction taking the form of punishment adopted for recidivists as well as law-making and the application of the law are all founded upon the principle of increased severity. In the system of responsibility that has been established it is the predominant conviction that it is wiser to impose a more severe punishment on criminals (recidivists) who have committed new criminal acts in spite of the fact that they were called to account earlier for a previous offence. In the overwhelming majority of cases a severe punishment (except for capital punishment) means imprisonment for a longer period. Considering the fact that in the course of a longer spell in prison there is increased possibility in principle for educating the convicted persons, this kind of punishment does not contradict the concept of responsibility which places the ideology of treatment in the focus. It is of common knowledge, however, that the conditions of the content of punishment adopted for recidivists, that is the manner in which treatment is to be given, has not as yet been elaborated adequately. The demand specified by penal codes and concerning the differentiation of punishment gives prominence, in the first place, to increased severity to be adopted against recidivists. Sheer severity, however, even if it is adequately differentiated to correspond to the extent to which the criminal act and the person having committed it are dangerous to the society, does not make it possible by itself to eliminate the subjective conditions for committing a new criminal act. *Differentiated jurisdiction which bears in mind the conditions of the content of treatment as well is built up on the recognition of the causality of committing a crime, the subjective specificities of the offenders and the characteristics of the criminal act.*

We stand a better chance of establishing a kind of classification corresponding to the requirements listed above in the case of *recidivists* than in the case of people called to account for the first time. Both the tendency and content of their being opposed to the society can be more successfully brought to the surface in the course of calling them to ac-

count repeatedly. Additional points to rely on for support are offered by the disclosure of the correlations of the content of the all criminal acts committed and the previous punishment or the evaluation of the failure of the previous punishments. *A classification based upon strong and comparatively long opposition to the society can create the definite outlines of the programme of special prevention.*

The independent typology of recidivists cannot be created. The different forms recidivism takes are within the limits of the classification system covering all the criminals. As has been explained earlier the differentiation performed in the ranks of recidivists is designed to serve the effectiveness of punishment and the fullest possible enforcement of the special preventive goal of punishment. The objectives of punishment, however, cannot be different with regard to recidivists either, because the goals of punishment set for all the types of criminals are founded upon uniform principles. The essence of these principles cannot be altered even by the fact that the objective which is formulated in general for criminals who have committed the widest possible range of criminal acts and have a very broad variety in respect of the structure of their personality can only be achieved if different methods and means are adopted.¹ The objectives set forth and defined by penal codes can only be achieved in case a differentiated system of methods and means promising to be effective are used. Obviously, the methods and means of punishment to be established for recidivists cannot run counter to the principles that prevail in general and, therefore, they must be adjusted to the system as a whole ensuring service of the objective. *For this reason, although the classification corresponds to the stages necessary for achieving the objective, it sets out from the most general sphere in which the enforcement of the given goal is necessary.*

The achievement of the objective of punishment can be ensured in stages, a manner that can be appropriately defined in penal jurisdiction. The whole system of the *law* is designed to serve the purpose of prevention. Determination of the objective of punishment and the viewpoints governing the imposing of punishment contains the most important principles providing for the effectiveness of punishment. The *court* passes a sentence on the basis of the above principles and with all the circumstances of the case taken into account. As a rule, it takes into consideration, first and foremost, the kind and extent of punishment specified by the law, the character and weight of the criminal act committed, the special features of the personality; and the actual punishment which is adjusted to all these factors and contains educational elements as well as disadvantages is imposed so that the one considered to serve best of all the purpose of preventing recidivism is selected. The court also specifies the kind and extent of punishment and in the course of passing a sentence involving imprisonment which, in turn, has an influence also on the content of punishment when the degree of execution is also defined. The organs responsible for the *implementation of punishment* see that the objective of punishment is achieved within the limits provided by the

sentence. A programme is drawn up for exerting a positive influence on the personality of the convicted person, and it is also endeavoured to create subjective conditions preventing him/her from a new criminal act. *After-care* which follows release from prison is designed to strengthen the positive changes brought about by the punishment, make them more definite, create the necessary conditions and remove the obstacles to achieving the objectives.² Each stage of the procedure is equally important for achieving the objective of punishment. These stages not only specify the sequence of the actions but they also call for coordinated work of content necessary for achieving the goal defined in general. An increase in the effectiveness of punishment can, therefore, be promoted by such kind of differentiation which takes into account the enforcement of the uniform objective of punishment by stages. Jenő László and Mihály Ficsor are absolutely right in stating in connection with the importance of increasing the effectiveness of differentiation that "on the one hand, it makes it possible to use more adequate means and methods when dealing with the individual groups of offenders and, on the other hand, it enables the concentration of sources and their more intensive utilization on areas where such actions prove to be particularly essential."³ Considering the fact that the efforts made to achieve the objective of punishment involves different tasks for the organs active at the individual stages of the procedure the system devised to classify the offenders must also be adjusted to this logical sequence. Accordingly, the offenders must be classified according to the following stages:

- the law,
- the court passing the sentence,
- the implementation of punishment and
- after-care.

The typology of offenders which is now attempted to be established for experimental purposes can be applied, above all, to the *first two* of the above four stages, because only this is as far as we can go in terms of the empirical verification of the hypotheses in case a theoretical approach is made. If the system to be established proves to be correct a step forward can be taken on this basis in the direction of the implementation of differentiation promoting the actual programme of the execution of punishment and based on the typology of the law and the administration of justice. After-care is the organic follow up work of the execution of punishment and the content of after-care activity is determined, as a rule, by the results achieved in the course of the implementation of punishment. For this reason, differentiation ensuring the effectiveness of after-care can only be take shape in the possession of and through the utilization of the execution of punishment.

At an earlier stage of the related study it was made clear that the term: typology denotes the *classification of offenders*. Differentiation is founded upon such personal characteristics of the offenders which are related to committing the criminal act. Therefore, classification is built

upon the similarity between the causality factors. The classification of offenders on a basic level can take place on the basis of the *depth to which and how durably* the factors that can be denoted the causes et crime *have come to be incorporated into the personality. Comparison between the criminal act and the series of other behaviours adopted in the course of one's career* makes it possible to collect relevant evidences. Thus the question to which an answer has to be sought is: what is the extent to which committing a criminal act was unexpected or incidental considering the career of the person involved to the stage of committing the act.

It goes without saying that in this case behaviour should not be viewed from the angle of the actual causes bringing about the act, because in a given case this can never be incidental, since it is always necessary⁴ when it is studied in retrospect following the disclosure of the given causality relations. The point here is rather the one whether or not the criminal act that has been committed can be fitted into the offender's career as a necessary element or an incidental one. Accordingly, the following categories can be distinguished:

- A) offenders in whose career committing a criminal act has been an alien element to the stage in question;
- B) offenders in whose career a form or forms of behaviour running counter to the law and being very close to committing a criminal act have already occurred and displaying criminal behaviour cannot, therefore, be regarded as incidental;
- C) finally, criminals whose career to the stage of study has been characterized by committing criminal acts either for a longer spell of time or repeatedly.

Before summarizing the features characteristic of the individual types or categories listed above a reservation brought about towards a classification of the above kind has to be mentioned.

The regularities that can be concluded from the offender's series of behaviours as well as the problem of the usability of the information thus disclosed in the course of the classification of offenders have been discussed in detail by József Vigh in his Ph.D. thesis⁵. The author's statements led to heated debates in the course of which counterarguments were also formulated. In connection with this Jenő László and Mihály Ficsor, for example, had this to write in their article referred to earlier: "Going into any excess in endeavouring to imposing punishment adequate to the personality can lead to serious errors, because it must be reckoned with that, that the sciences dealing with man as their subject have not as yet reached a stage of development as would make it possible to give a clear-cut qualification of a personality and to identify in a reliable manner the features of the personality promoting the committing of a criminal act. Furthermore, even if the defects of the personality were clearly identifiable and clear-cut before us, it would not be sufficient; the science of medicine, psychology, pedagogy and the other sciences destined to render the defects of the personality identifiable and clear-cut are far from being

capable of guaranteeing the means of eliminating these errors. In any case, penal law cannot be based on such shaky and unstable foundations. The personality can be taken into consideration only as long as adequate and objective criteria are available. And these criteria are offered by the criminal act that has been committed or the offender's behaviour which is manifested in his/her actions and external attitudes."⁶

When stating this the authors set out from the idea that relating the committing of a crime to a life led earlier is merely a medical or psychological issue. In our case, what is involved is far more than that. *The whole career of a personality can be characterized by objective criteria in the same manner as, for example, only one of its momentary manifestations which is, in the given case, the one that is at issue in the criminal procedure.* This is the forum or stage at which the series of the behaviours manifested in the personality's external attitude comes up for analysis. Among them we can find manifestations that can be registered by the environment quite reliably and which can be related to committing a criminal act. It must be noted, however, that the conclusion of relationship cannot be founded merely on a subjective judgement of values because objective criteria must be found or produced to characterize it. For this reason, in the course of disclosing the causality for classifying the types into categories *only such previous behaviours can come up for analysis which were followed by one or another form of calling to account* (taking the form of proceedings for an petty offence, disciplinary or ones of criminal law). It as an additional requirement that previous behaviour or behaviours running counter to the law which are to be evaluated cannot lie too far from the sphere of meeting the requirements in which the criminal act was committed. In other words: there must be similarity between the previous and latest violation of the law in respect of the causality process. (In accordance with what has been discussed above it is wrong to classify an offender automatically into category B) who have already been called to account for an offence committed out of carelessness but most recently he has committed burglary.)

By using objective criteria as means of describing typology we tacitly acknowledge that we do not consider the present level of the development of sciences dealing with the personality high enough or suitable for use as a basis for calling people to criminal account. However, we think it possible or even desirable that in addition to the criminal act because of which the legal proceedings were launched and the evaluation of the actual personality that existed at the moment the criminal act was committed the previous behaviours listed and discussed in the preceding manner should also be taken into consideration.

Incidentally, the principles acting as a basis of typology do not contradict the provisions of criminal law that are in force; quite the contrary, they are in accord with the principles of imposing punishment defined in these provisions. However, they constitute something new from the point of view that they offer viewpoints which have been turned into a system for the evaluation of the personality of the offender. They promote

the evaluation of the mitigating and aggravating circumstances arising on the subjective side as well as individualization in the course of imposing punishment. Further classification can facilitate a reform of the system of calling recidivists to account. So far as the guarantees for the means of eliminating defects of the personality, a point mentioned by authors László and Ficsor is concerned we cannot make available such guarantees either. Our objective is confined to contributing to introducing a more effective punishment than what has been used so far by making a system of the information disclosed to the present day by criminology.

When formulating our arguments against objections the major principles governing the typology established were discussed. In what follows the internal criteria of the individual essential principles will be outlined.

A) A person can be defined as *occasional offender* if his/her committing a criminal act is unexpected or incidental compared to his/her preceding career. This type of offender has been characterized by a behaviour abiding by the law in the process of satisfying his/her requirements and in every field of his/her social relations and communication; therefore, *abiding by the law* was the necessary feature of his/her character and, for that matter, of his/her system of behaviours.

a) In who is termed *situational criminal* the idea of satisfying his/her demands in a manner running counter to the society's interests is brought about by the impact exerted by or the recognition of favourable environmental conditions promoting the committing of a criminal act. It is the same environmental factors that pave the way for the realization of the criminal act. The environmental factors prevailing during the period preceding the act play a predominant role in bringing about the subjective causes, or they exert a paralyzing effect on the motivation struggle, or they bring about the image that there is little if any chance of the act to be discovered and this is what results in a decision in the struggle between the motivating factors. This struggle which takes place before beginning the act is extremely short.

b) In the case of *offenders geared by emotions* an unexpected and anti-law aggressive outburst is characteristic which takes place in the course of satisfying his/her demands or seeking a solution to a conflict. Accumulated passions get round the intellectual control to find an outlet which takes the form of an outburst in which the behaviour runs counter to the provisions of penal law. In a large number of cases the factor motivating the anti-law act or lying behind the strong emotion bringing about the act is a personal conflict which has not been settled for a long period. The hopelessness of finding a solution to the prolonged conflict can be verified by a new event which is perhaps absolutely insignificant. The attempts made before the criminal act which is the subject of the examination to settle the prolonged conflict cannot contain one revealing anti-law behaviours because if there were any among them the offen-

der would automatically be excluded from the category of occasional offenders.

With a view to what has been summarized above the occasional criminal can be defined as a person who finds himself/herself faced with penal jurisdiction for the first time in his/her life and no behaviour of another nature, for instance, one of a considerably anti-law character which is related to the criminal act constituting the subject of the proceedings can be discovered in his/her record. When considering the punishment to be imposed this fact must, in our view, be given serious consideration in addition to judicial discretion. In case the extent to which the criminal act is dangerous to the society allows, that is it does not carry such a heavy weight, imprisonment should be avoided as much as possible in the case of offenders belonging to this category. If, however, the possibility of imposing a lighter punishment is excluded by the weight of the criminal act attention should be focused, in the course of the implementation of punishment, on giving the convicted person appropriate protection from the harmful effects of imprisonment which undoubtedly exist today. Building up relations with the outside world can take place on the widest possible basis. The so-called open prisons would be wise to establish for convicted people of this type. The length of the sentence passed cannot influence this sort of selection of the regime of the implementation of punishment. It is therefore possible that even a person having committed murder under strong provocation is given a term in open prison if otherwise he/she can be classified into the category of occasional criminals. The subcategories of situational offenders or those geared by emotions carry importance from the point of view of determining the kind of treatment (education) to which the person is to be subjected in the course of the implementation of punishment. This distinction can be the basis for group education performed during imprisonment, while individual treatment is founded upon the knowledge of the actual reasons for and conditions under which the criminal act was committed.

B) The category of *offenders inclined to displaying attitudes against the law* has been created for people who have to face jurisdiction for the first time on their lives but they have already been called to account for some kind of anti-law behaviour lying outside the limits of criminal law. With these types of offenders the breaches of the law dating farther back and the criminal act committed eventually in the course of satisfying their demands are positioned in a similar domain of social intercourse. From a comparison of the circumstances under which at least two acts (of which the second one is a criminal act) were committed against the law conclusions can be drawn as to the direction in which the person is opposed to the society. If this opposition has arisen in similar domains of social intercourse and in the course of satisfying similar requirements it is very likely that the person concerned has a bent for displaying an anti-law attitude. In the process of imposing punishment this circumstance can be considered as an aggravating factor. And the underlying reason is

not only the manifestation of opposition to a definable tendency in the form of repeated act against the law but also the fact that the opposition shown has taken a more serious form: a criminal act. And all this, that is the committing of a criminal act has come about in spite of the fact that the person was called to account for a previous breach of the law. Disclosure of the tendency of prolonged opposition may well result in the lining up of factors that can be characterized with objective criteria on the subjective side as well. It offers a point of support for making a better founded selection of the kind and extent of punishment and has a determining impact on choosing the factors of content of the punishment. This, in turn, involves the obligation for the court to acquire thorough knowledge of the object of the breaches of the law that took place prior to committing the criminal act along with the related circumstances, causes and conditions.

C) *Offenders with a criminal career* make up the category of people whose course of life is characterized with criminal acts committed either repeatedly or successively for a longer spell of time. Committing a criminal act is, therefore, is either recurrent or a form which has become customary for the person concerned in satisfying his/her demands and, accordingly, committing a criminal act is not only an attitude alien to the offender's intercourse with the society but something that is bound to take place. From criminal acts committed repeatedly or in succession over a longer spell the conclusion can be drawn that opposition to the society which has already been revealed by criminal acts has become very profoundly incorporated into the offenders' personality and this is likely to lead to lasting distortions. While imposing punishment on them it must be endeavoured to reduce the personality's active opposition to the minimum. The essential requirement to be met by the content of the punishment imposed in these cases is that it should be suitable for making the convicted people acquire the recognized norms of social intercourse and the models accepted and prevailing in the course of meeting requirements.

In the case of the former group of offenders (people who are inclined to displaying an anti-law attitude) the requirement governing the content of punishment could not be formulated in such a definite form. This is partly due to the fact that in the latter case opposition revealed by committing criminal acts repeatedly or in succession takes a more serious form and, therefore, it is more justified to exert a positive influence on the personality in the course of calling to account. On the other hand, committing a series of criminal acts shows that there are fundamental defects in respect of the offender's knowledge, acceptance and subsequent application of the rules governing social coexistence and they can only be eliminated by changing the structure of the personality. In this category the prevention of a fresh criminal act can only be achieved, as a rule, with a punishment involving partial or complete imprisonment. This method is justified by the fact that the problem of exerting a positive influence on the personality for a longer spell of time can only be solved

with this sort of punishment, that is under conditions free from harmful external impacts of the environment stimulating for a criminal behaviour. Creating an atmosphere like that for the implementation of punishment continues to be one of the essential tasks to be accomplished by penal jurisdiction. From another viewpoint the necessity of isolation can be supported by the endeavour that the society must be physically protected against a person committing a series of criminal acts as long as the danger of the likelihood of another comparatively serious criminal act to be committed still prevails. In connection with this it must be mentioned that the longer a person's criminal record, the more likely it is that he/she will commit a fresh criminal act. This conclusion is supported by the results latest of the criminological research.⁷ Today the implementation of punishment can meet the requirement of guarding with appropriate safety from practically every aspect.

The type of career criminals can be further broken down from the point of view of whether or not an attempt has been made to transform their personality by taking advantage of the means made available by criminal law. On this basis the following two groups can be distinguished:

a) *People having a criminal career but not as yet been punished.* The punishment to be imposed on them must be based on the rules governing cumulative or total punishment. The related rules, however, do not refer to the general principles of imposing punishment. However, in the punishment imposed in this manner consideration of the offender's personality has increased importance especially because of the fact that criminal act has been committed repeatedly. The social demand to be satisfied in connection with the punishment to be imposed in this case is that it should contribute to decreasing or virtually eliminating the subjective conditions for committing a fresh criminal act. This objective can only be achieved in case the punishment is imposed and implemented in consideration of the experiences gained from the examination of the criminal career. While taking them into account the following aspects must be paid attention to:

- Duration of the series of criminal acts.
- Whether or not the criminal career brought about by the series of criminal acts is of a homogeneous or heterogeneous nature.
- In case the career is a heterogeneous one what common features can be used to characterize the criminal acts that have been committed or the state of the personality prevailing at the time the act took place.
- Whether or not the serious criminal acts took place prior to or after the milder ones in the process of the development of the criminal career.
- Whether or not casuality can be detected between the individual criminal acts.

In case the court takes into account the factors listed above in addition to the objective weight of the criminal acts that have been commit-

ted, attention must also be devoted to the viewpoints governing the re-education (resocialization) of the offenders the punishment to be imposed is being considered. When considering cumulative punishment examination of the case of this kind does not necessarily mean an additional task to accomplish for the authorities involved. Establishing total punishment by adding up all the components has so far been a technical procedure rather than one of content in the Hungarian practice. If judicial discretion is extended to the factors discussed above the determination of total punishment will assume a new meaning and content.

b) The Hungarian system now in force and governing the methods of *calling recidivists who have already been punished to account* is not going to be discussed here. Only the viewpoints of classifying this group is being discussed, that is to say the principles on the basis of which the responsibility system of recidivists can be reformed with the assistance of typology.

Recidivists group *a*) differ from the offenders classified into group *b*) in that punishment formulated in a verdict has already been imposed on them once or perhaps several times before. This measure was an attempt designed to prevent another criminal act but it turned out to be unsuccessful. In connection with offenders belonging to this category not only the characteristics of a criminal career discussed in detail earlier should be examined but the reasons for the failure of the punishment imposed earlier must also be studied. In addition, the examination must also be extended to the ways and means institutionalized by penal law and used in the given case and which were basically destined to serve the purposes of preventing a fresh criminal act from being committed. Thus the *sentence passed earlier*, its kind and extent must be compared with the facts bearing of the case, the characteristics of the personality; furthermore, the *method of implementing punishment*, the educational means adopted, the evaluation of the personality in the course of the implementation of previous punishment (s) and the effectiveness of *after-care* must also be taken into account. The additional factors and elements to be explored include the *environment* which the person with punishment on record got into after release, a factor which ought to have provided for his/her readjustment. Examination of such broad a range would obviously increase the effectiveness of the courts' work of formulating and passing sentences on recidivists, because it would be their duty to explore the actual reasons lying behind recidivism which would evidently have an influence on the formulation of a new verdict. At the same time, the responsibility borne by all the authorities participating in penal jurisdiction, or more exactly, this responsibility would be referred to the individual cases as well. Exploration of the concrete reasons lying behind recidivism would make signalization possible in every case in which, as revealed by the examination, one of the organs (authorities) involved could be blamed for inadequacy. The judge would then be in a position to call the attention of the after-care officer to the lessons to be drawn from the errors. So far experiences of this kind have been taken advantage

of only incidentally. Disclosure of the actual environmental difficulties resocialization has to face would open up new vistas for preventive activities considered within a fairly broad range and would promote the further development in terms of organization of after-care.

In the course of making examination in the ranks of career criminals it is essential to disclose the correlations of content of a homogeneous criminal career. It must be pointed out here that *criminal career* means the totality of factors which characterize the offender's personality on the basis of the nature of all the criminal acts he/she has committed. It offers a reply to the question seeking the sphere of the satisfaction of requirements or of social intercourse in which opposition is repeatedly manifested in the form of criminal acts. The recidivist whose criminal acts reveal a similarity can be described as one of *homogeneous criminal career*, irrespective of whether this similarity arises from an identical sphere of social intercourse or from the fact that manners in which the satisfaction of demands dangerous to the society are much the same. Homogeneous criminal career reveals similarities that can be detected through the causality correlations of the criminal acts committed. And these similarities act as a basis on which the tendency of opposition to the society can be disclosed.

There is no doubt as to the existence of homogeneous criminal career in cases in which the offender repeatedly commits the same crime. The results of criminological research, however, make it possible to establish homogeneous criminal career within much wider limits than that. Hungarian research has distinguished three groups of criminal acts in which similarity of the offenders' opposition to the society can be detected in addition to the similarities in the nature of the criminal acts that have been committed. These three categories are as follows: violent crimes, criminal acts committed against property and parasitic types of acts.⁸ The criminal acts belonging to the latter two groups are qualified as ones of homogeneous character in accordance with the provisions of the Hungarian Criminal Code. No comprehensive formulation of violent crimes has as yet been made in the law, but accepted in the criminal policy.⁹

It is the task of criminology to disclose other forms of committing criminal acts similar to the ones listed above. The new results achieved afterwards will be used for identifying other forms of the manifestation of homogeneous criminal career.

The homogeneous criminal career points to the fact that opposition to the society has very definite tendencies. *Its existence, however, does not necessarily mean an aggravating factor compared to the fact of committing a fresh criminal act (recidivism).* The extent to which a personality that can be characterized in the above manner is dangerous to the society comes to light in the course of considering the social value of legal objects suffering the attack and the actual harm done. It deserves particular attention whether the extent to which the successive criminal acts of a similar character are dangerous to the society reveals in increasing or decreasing

tendency in the criminal career and the number of acts that can be considered from the point of view of penal law must also be taken into account. Criminal career of homogeneous nature determines the direction in which intervention by criminal law must be made and offers a basis to rely on for support in applying differentiated punishment. Disclosing it opens up the possibility of defining the educational tasks to be accomplished in the course of serving the punishment and it can also contribute to singling out the rules governing social coexistence the acquisition of which by the person is a duty to be attended to by resocialization.

There are also *time limits* for establishing homogeneous criminal career. The tendency of the acts committed by the personality, that is to say the repetition of similar behaviour can only be evaluated within certain time limits. If the period free from any criminal act is longer, say, extending to over five years, the criminal act committed earlier should also be taken into consideration but not to the extent as though the time that elapses between consecutive criminal acts were much shorter, for example, a few months only. This issue, however, needs to be elaborated on the basis of empirical knowledge.

What has been said about homogeneous criminal career assumes, from a certain aspect a new meaning for recidivists who have *already been punished*. The specificity of this group of offenders committing criminal acts of a similar nature repeatedly is that in the meantime that punishment has been imposed on the offenders. The punishment adopted can, therefore, be described as absolutely unsuccessful, especially in case a criminal act of a similar nature is committed repeatedly shortly after the person's release in the wake of serving his/her punishment. This type of recidivism supplies evidence to prove not only that the person's opposition to the society is a lasting one but it also renders the tendency of opposition quite obvious. Thus elaboration of a criminal policy assuming a more definite shape is made possible to be adopted in the event of criminal acts of a homogeneous nature and committed by persons having already been subjected to punishment. The verdict, as well as the implementation of punishment and after-care must contain the lessons drawn from the failure of the measures taken previously.

The three categories of committing criminal acts and revealed to date by Hungarian criminological research, that is violent crimes, criminal acts against property and parasitic types of acts have a particular importance from the point of view of homogeneous criminal career occurring with *recidivists*. And this is because the number of criminal acts that can be classified into this category account for a considerable proportion of the criminal acts committed by recidivists. Ignoring criminal acts of mixed *cumulation* among which the ones to be enumerated also occur the following statistics can be obtained: violent crimes account for 26 per cent of the criminal acts committed by recidivists, crimes against property amount to 44 per cent while the share of the third category: parasitic types of crimes is 2 per cent. The three groups of crimes put together account for almost three quarters (72 per cent) of criminal acts

committed by recidivists.¹⁰ There are no accurate data available as to the proportion of recidivists having homogeneous criminal career. On the basis of the frequency of criminal acts committed by them and on the grounds of the ratio of recidivists and people with a criminal record in the total crime figures it can be concluded with considerable likelihood that almost *every second person with a criminal record has a criminal career of homogeneous nature*.¹¹

It also comes to light from the data given above that among the career criminals the proportion of offenders having a *heterogeneous type of criminal career* is comparatively large. In this case, too, the need for differentiated penal jurisdiction arises which should be founded upon the consideration of the criminal career. It is quite justified and reasonable to examine in this domain the correlations between the different types of criminal acts and the similarities that can be detected in them. The similarities are to be sought in the manner in which the criminal acts have been committed and in the circumstances under which they have been committed. If the related examination is successful the actual motives which promoted the development of a mixed type of criminal career can be disclosed. In such cases it is wise and justified to seek, perhaps, the deeplying correlations between the causality process in order to get to know the essence of the anti-social opposition displayed. In the course of studying the circumstances under which the criminal acts has been committed the court can take into consideration, for example, the kind of area of human activity or social intercourse to which lasting opposition is being displayed whether the target of attack is the system of performing work being obligatory, relations with work, ties with the family, contacts with the neighbours and friends, or it is focused on social relations associated with leisure time or entertainment. If it can be concluded that committing the criminal act is successively positioned in the same sphere out of the areas of activity listed above, this circumstance can offer a basis on which the direction in which the person can be influenced by the sentence to be passed on him/her can be selected and, at the same time, it also promotes the content of resocialization to be made more specific. The court can achieve results that can be used to a great advantage if it explores that the reason lying behind the heterogeneous criminal career was, for example, that the person led a life dominated by alcohol. This way of life can naturally lead to committing several types of criminal acts in a most varied field of activity. Nevertheless, if such causality factors are brought to the surface in the course of the proceedings the programme of special prevention can be specified very definitely. (It is another matter that we cannot at all be satisfied with the effectiveness of the anti-alcoholic treatment adopted that far.)

Heterogeneous criminal career can be characteristic of recidivists who have already been punished or those whose punishment record is still intact. The evaluation of the personality of one having already been punished and possessing a heterogeneous criminal career can be made more complete with an additional viewpoint, that is whether the change

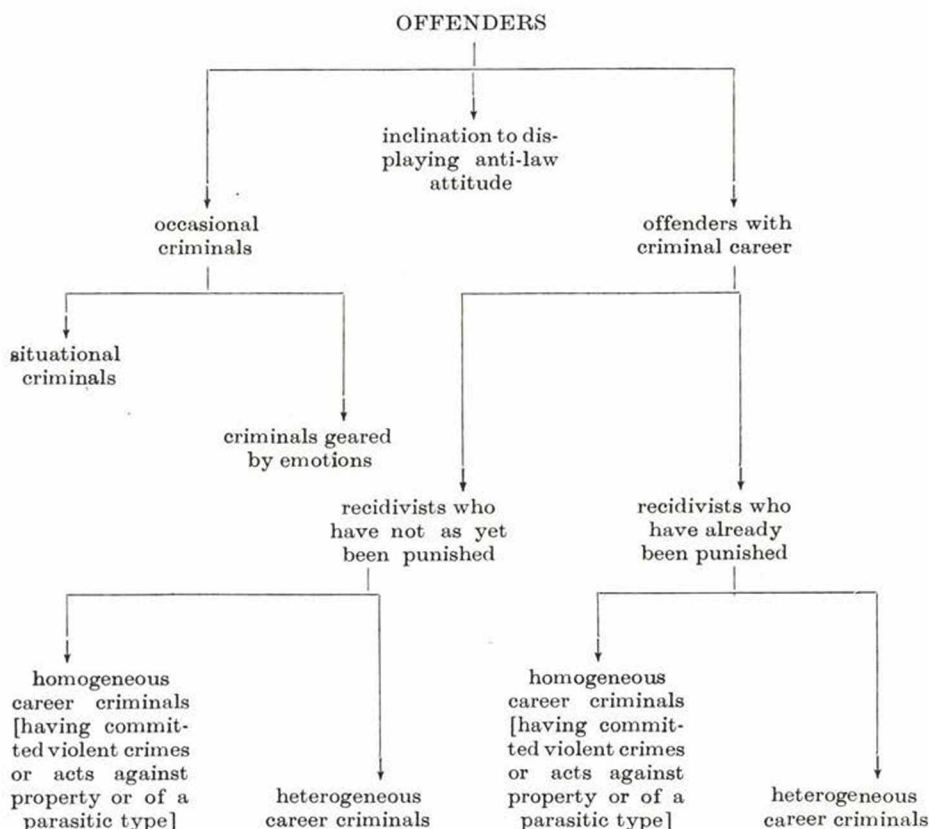
in the person's tendency of opposition to the society can be considered as a success achieved by the previous punishment or its failure?

In case the correlations that have been listed now merely with the purpose of giving examples come to be confirmed by research involving a broad spectrum of offenders, they can promote further classification to be made within the group of offenders having *heterogeneous* criminal career. The direction in which studies should be made in individual cases, however, can already be specified in the possession of our present knowledge. Examination of the deep-lying causality correlations, a point that was mentioned earlier, cannot be ignored in the group of offenders having *homogeneous* criminal career either, because the need for knowledge of factors of this kind cannot be discarded in the process of bringing a sentence and, in particular, in the course of the implementation of punishment. Knowledge of the factors mentioned above is indispensable in the process of giving individual education which is a very important form of resocialization acting as a complement for group treatment.

In this study an attempt has been made to establish a system of classifying offenders in order to promote differentiated sentencing. The typology established on the basic level is founded upon the following criteria: to what depth the factors that can be defined as the reasons for committing a criminal act have penetrated into the offender's personality and how lasting they are. Differentiation has been made on the grounds of certain qualitative characteristics of the causality factors within the categories established according to the above two criteria. Based on this the structure of crime can be illustrated with the following scheme from the aspect of the offender:

By attempting to establish a typology of the personality of offenders we are not endeavouring to lay less emphasis on examining the action or object side of the problem. We simply consider it necessary to contribute to bringing about a more thorough picture of the offenders' personality than so far by taking advantage of the system established for the causality factors and to achieve that the offender's personality should be taken into consideration as a factor on equal footing with the objective implications of the criminal act. It is our conviction that only a criminal policy coordinated along the principles outlined in the foregoing can serve the purpose of preventing the repetition of criminal acts most effectively.

The problem of criminals constituting serious danger to the society has not even been mentioned in this study. On our part, criminals particularly dangerous to the society are not regarded as homogeneous group of criminals and, for that matter, they cannot be classified into any of the categories of a system bearing in mind the resocialization of offenders. It is clear from the foregoing that persons described as very dangerous as criminals belong to the group of offenders who have already been punished. However, they do not constitute an independent category within this sub-group, for *they represent an extreme bunch in the ranks of offenders having either homogeneous or heterogeneous criminal career as a result*



of the seriousness of the acts they have committed and the increased danger to the individuals of the society manifested in these criminal acts. That is why we are of the opinion that there is no good reason for establishing a system of responsibility for them along principles different from what have been adopted so far. In their case it is wiser to devote increased attention to adopting all the specialized types of treatment which can otherwise be used for the re-education of offenders with homogeneous or heterogeneous criminal career. For if the criminals of this class are rallied in just one type of penitentiary on the grounds that they constitute a particular danger to the society and, to a certain extent, irrespective of their criminal career, this approach means either inability or reluctance to pay appropriate attention to resocialize them. It is quite obvious that a group made up of heterogeneous offenders from every aspect with regard to the content of their acts cannot be treated successfully by adopting the same educational system, methods or principles and under identical conditions. If a system like this is ever introduced, it is designed to serve the only and exclusive purpose of isolation them from the society, and not more.

FOOTNOTES

¹ See detailed discussion of the problem in Dr. J. Vigh's: *Kauzalitás, determináció és prognózis a kriminológiában* (Casuality, Determination and Prognosis in Criminology). Ph. D. thesis. Budapest, 1974. pp. 355–357.

² Dr. Jenő László – Dr. Mihály Ficsor: *Elgondolások a büntetési rendszer továbbfejlesztéséről* (Ideas about the Further Development of the Penal System). Magyar Jog (Hungarian Law) 1976 No. 9, p. 747.

³ Dr. Jenő László – Dr. Mihály Ficsor: op. cit. p. 752.

⁴ See detailed discussion of the question in Dr. J. Vigh's *Casuality, Determination...* op. cit. pp. 152–153.

⁵ For the detailed discussion of the problem see Dr. J. Vigh's *Casuality, Determination...* op. cit. pp. 152–170.

⁶ László – Ficsor: op. cit. p. 751.

⁷ I wish to single out only a few of the research results. As regards Hungarian research and authors the conclusion mentioned is included in a study by Dr. Antal Patera and Dr. Tibor Tavassy (A visszaesés intenzitásának kriminológiai vizsgálata, *Criminological Examination of the Intensity of Recidivism*, a study by the Research Institute of Criminalistics and Criminology, manuscript, pp. 20–27.). Similar conclusions were drawn by McClintock (Crimes of Violence, London, MacMillan and Co. Ltd. 1963. pp. 24–36) while studying violent crimes. Much the same experiences are summarized by Bottoms and McClintock (Criminals Coming of Age, Heinemann, London, 1973. pp. 270–281.) following their joint research.

⁸ Here are a few of the research results on which the conclusion is based:

Dr. Miklós Vermes: *A társadalmi tulajdon elleni bűncselekmények kriminológiai vizsgálatának néhány módszertani tapasztalata* (Some Methodological Experiences of the Criminological Examination of Criminal Acts Committed against Social Property). (Kriminológiai Tanulmányok, Studies of Criminalistics, Volume I.) (K. J. K. Publishing House for Economics and Law, Budapest 1962.)

Dr. Miklós Vermes: *A vagyon elleni bűnözés* (Crimes Committed against Property). Special Criminology. (University Textbook, Chapter III.) Textbook Publishing House Budapest, 1973.

Vigh – Gönczöl – Kiss – Szabó: *Erőszakos bűncselekmények és elkövetőik* (Crimes of Violence and Those Committing Them). (K. J. K. Publishing House for Economics and Law, Budapest. 1973.)

Dr. István Tauber: *Az elődsdi bűnözés kriminológiája* (The Criminology of Parasitic Types of Criminal Acts). (Acta Facultatis..... Faculty of Political Science and Law, Eötvös Loránd University, Budapest. 1974.)

⁹ See, for example, Resolution No. 14/1973 brought by the Presidential Council of the Hungarian People's Republic on "The Legal Policy Directives of the Application of the Law" and Directive No. 6 issued by the Supreme Court of Justice on how to consider persons called to account repeatedly in the criminal procedure.

¹⁰ The data presented here have been borrowed from the extensive study made by the Section of Criminology of the Faculty of Political Science and Law of Eötvös Loránd University, Budapest.

Dr. József Vigh: *Szakovélemény a szabadságvesztés hatékonyságáról*, Expert Opinion on the Effectiveness of Imprisonment, Budapest 1976. Manuscript, p. 73.

¹¹ The figure quoted is an estimate and has been obtained from a publication *Tájékoztató a bűnözésről* 1975 (Information on Crime 1975 which carried it. (Information Processing Section of the Hungarian Ministry for the Interior and the Secretariat of the Chief Prosecutor's Office. 1975. pp. 23–26.)

ПОПЫТКА КЛАССИФИКАЦИИ СОВЕРШИТЕЛЕЙ ПРЕСТУПЛЕНИЯ

Д-р К. ГЭНЦЭЛ
старший преподаватель
(Резюме)

Типологическая попытка автора направляется на классификацию рецидивистов. Ибо, по ее мнению, эффективность наказания рецидивистов может быть повышена только использованием типологической системы, основанной на причинных факторах совершения преступления. Ввиду того, однако, что наказание рецидивистов не может иметь иной цели, чем та, которая, как общая цель, предусмотрена уголовным законом, типология рецидивистов находится в рамках системы классификации всех преступников.

Типизация совершителей во первых может производиться на основе того, как глубоко и проникли в личность преступника те факторы, которые являются причинами совершения преступления. На основе этого различаются следующие три типа совершителей: преступники, действия которых являются чужжими их личности, склонные к противоправному поведению и преступники, действия которых являются адекватными их личности. На основе причинного процесса и внутренних характерных черт личности, преступники, совершающие чуждые своей личности действия, могут дальше разделяться на подтипы ситуативных и случайных преступников. Для преступников с адекватными действиями имеется выдающееся значение тот факт, были ли они уже раньше привлечены к уголовной ответственности, или нет. На основе этого, преступники, совершающие действия, адекватные своей личности, могут быть подразделены на наказанных и ненаказанных рецидивистов. В рамках обоих подтипов можно производить дальнейшую классификацию на основе близости совершенных преступлений в ходе их преступной карьеры. Мы различаем группы рецидивистов, имеющие гомогенную и гетерогенную карьеру.

После установления типологической системы автор излагает правово-политические выгоды использования этой системы.

**DIE PERSÖNLICHKEIT DES TÄTERS
UND DIE GESELLSCHAFTSGEFÄHRlichkeit DER PERSON**

DR. KATALIN GÖNCZÖL
Universitätsdozent
(Zusammenfassung)

Die Untersuchung der Persönlichkeit des Verbrechers ist nicht nur hinsichtlich der kriminologischen Kausaluntersuchungen wichtig, sondern im Interesse der wirksamen Geltendmachung der speziellen Prevention auch für die Strafpolitik. In der Strafpolitik kann der Begriff der Persönlichkeit auf Grund der Kriterien der subjektiven Gesellschaftsgefährlichkeit folgendermaßen bestimmt werden: auf Grund des antisozialen Zustandes oder der Eigenschaft der Person, die zur Verantwortung gezogen werden kann, auf deren Inhalt, Tiefe, Intensität man im Laufe der statischen und dynamischen Analyse des Kausalverlaufes folgern kann. Die auf diese Weise entstandene Diagnose der Persönlichkeit und die Bewertung der objektiven Gesellschaftsgefährlichkeit bilden zusammen die Grundlage des Urteils prognostischen Inhalts. Die Verminderung der subjektiven Gesellschaftsgefährlichkeit, die Prevention der neueren Verbrechen kann durch strafrechtliche Mittel nur dann verwirklicht werden, wenn diese Charakterzüge beim Verbrechen oder in der Karriere des Verbrechens wirklich zum Ausdruck gekommen sind. Die wirksame Verwirklichung der Prevention benötigt aber auch die Anwendung nicht strafrechtlicher Maßnahmen, die auch zur Abshaffung des pre-delinquenten Zustandes notwendig sind.